IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

WP(C).No. 6197 of 2007(K)

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PETITIONER:

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BABU. B, ADIYANCOTTU VADAKKATHIL,
ULAVUKKADU, NOORANADU P.O., L.D.CLERK IN
MUNSIFF COURT, KAYAMKULAM.

BY ADV. SRI.P.SREEKUMAR
SRI.K.S.MANU (PUNUKKONNOOR)

RESPONDENTS:

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1. STATE OF KERALA, REP. BY THE
SECRETARY, SOCIAL WELFARE DEPARTMENT,
GOVERNMENT SECRETAIRAT,
THIRUVANANTHAPURAM.

2. THE SECRETARY, PERSONNEL AND
ADMINISTRATIVE DEPARTMENT, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM.

BY GOVT.PLEADER SRI.P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K.K.DENESAN, J**

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**W.P.(C)NO.6197 of 2007**

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**Dated this the 20th day of March, 2007**

**JUDGMENT**

The petitioner joined duty as Lower Division Clerk in the Munsiff's Court, Kayamkulam as a provisional employee. He is a physically challenged person. The appointment was for a period of 179 days. Since the 179th as also the succeeding day happened to be holidays, the petitioner could work only for 178 days. His service was terminated on 23.8.1999. For the purpose of computing the full period of service, he had to work beyond 15.8.1999. Hence the authorities refused to grant him the benefit of reinstatement in service as envisaged in Ext.P3 G.O. dated 5.3.2005.

2. The question whether physically challenged provisional employees who had worked beyond 15.8.1999 to complete the maximum period of 178 or 179 days, as the case may be, has been considered by a Division Bench of this Court in Writ Appeal

No.1601/2006. The Division Bench has held that if the provisional employee had got appointment and had commenced service in between 15.8.1998 and 15.8.1999, the mere fact that the full period of 179 days was completed beyond 15.8.1999 shall not stand in their way to claim the benefit of Ext.P3 G.O.

3. As far as the necessity to complete 179 days is concerned, the point is covered in favour of the petitioner by the issuance of Ext.P5 G.O. dated 19.7.2005. Therefore, decision on both the points will have to be in favour of the petitioner in the light of Ext.P4 Division Bench judgment and Ext.P5 Government Order.

In the result, this writ petition is allowed. There shall be an order directing the respondents to reinstate the petitioner in service and regularise the same, as early as possible, in any event, within two months from the date of receipt of a copy of the judgment.

**K.K.DENESAN, JUDGE**

**CSS**

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